



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 24, 1996

Mr. J. Robert Giddings  
Office of General Counsel  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2981

OR96-1018

Dear Mr. Giddings:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 40504.

The University of Texas System (the "system") received a request for a copy of the 1996-97 fiscal year draft budget for the University of Texas at Arlington as well as any amendments to the 1995-96 operating budget. You indicate that you will make available for inspection, if you have not already, a large volume of the documents which constitute the amendments to the 1995-96 operating budget, but you contend the remaining requested information, the draft budget for the 1996-97 fiscal year is excepted from required public disclosure under section 552.106 and section 552.111 of the Government Code.

Section 552.111 of the Government Code excepts from required public disclosure:

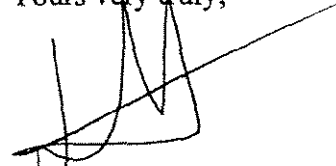
An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency.

This exception applies to a governmental body's internal communications consisting of advice, recommendations, or opinions reflecting the policymaking process of the governmental body at issue. *See* Open Records Decision No. 615 (1993) at 5. This exception does not except from disclosure purely factual information that is severable from the opinion portions of the communication. *See id.* Nonetheless, when factual matter is contained in the released final product there is no need to release it from the draft. Open Records Decision No. 559 (1990). It is intended to protect advice and

opinions given on policy matters and to encourage frank and open discussions within an agency in connection with the agency's decision-making processes. *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex. App.--Austin 1992, no writ) (citing *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.)). The document you submitted for review reveals a genuine preliminary draft that is intended for release in final form so that the draft necessarily represents the advice, opinion, and recommendation of various drafters. See Open Records Decision No. 559 (1990). Consequently, you may withhold the draft 1996-97 budget from public disclosure under section 552.111 and we need not address your arguments under section 552.106.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/rho

Ref.: ID# 40504

Enclosure: Submitted document

cc: Kathleen Gray  
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(w/o enclosure)